

# UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

V.

### CRIMINAL COMPLAINT

JAMES WAYNE COLBURN, JR. (DOB: xx/xx/1961)

CASE NUMBER: 08-M-422

I, Doreen Andrews, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief: In the State and Eastern District of Wisconsin, and elsewhere, JAMES WAYNE COLBURN, JR., the defendant herein, engaged in the following conduct:

Count One: On or about March 26, 2008, knowingly used a facility in interstate commerce, namely a cellular telephone, to attempt to knowingly persuade, induce, entice and coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which a person can be charged with a criminal offense, all in violation of Title 18, United States Code, Section 2422(b).

Count Two: On or about March 26, 2008, knowingly traveled in interstate commerce, from Illinois to Milwaukee, Wisconsin, for the purpose of engaging in illicit sexual conduct with "Maria," whom he believed to be a 15 year old girl; all in violation of Title 18, United States Code, Sections 2423(b).

I further state that I am a Detective with the Milwaukee Police Department, and this complaint is based on the following facts:

Please see the attached affidavit.

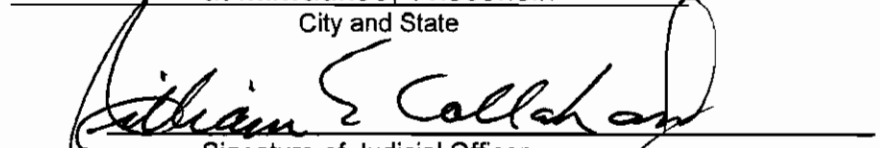
Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

  
Signature of Complainant  
Doreen Andrews

Sworn to before me and subscribed in my presence,

March 27, 2008  
Date

The Honorable William E. Callahan, Jr.  
United States Magistrate Judge  
Name & Title of Judicial Officer

at Milwaukee, Wisconsin  
City and State  
  
Signature of Judicial Officer

## **AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Doreen Andrews, being duly sworn on oath, state as follows:

### **Purpose of this Affidavit.**

I make this affidavit in support of a criminal complaint charging James Wayne Colburn, Jr. date of birth 10/03/1961, with 18 U.S.C. § 2423(b) (traveling in interstate commerce for the purpose of engaging in illicit sexual conduct), and with 18 U.S.C. § 2246 (a sexual act as defined in Title 18 United States Code, Section 2246, with a person under eighteen years of age, and said sexual act would be in violation of Chapter 109A of Title 18 United States Code, specifically Title 18, United States Code, Section 2243, if the sexual act occurred in the special maritime and territorial jurisdiction of the United States).

I make this affidavit in support of a criminal complaint further charging James Wayne Colburn, Jr. with Title 18 United States Code, Section 2422(b) (using a facility and means of interstate commerce to knowingly attempt to persuade, induce, entice and coerce a minor to engage in sexual activity, for which any person can be charge with a criminal offense, namely, under Wisconsin Statute 948.02 (2)).

### **Background and experience of affiant.**

1. I am a Detective with the Milwaukee Police Department (MPD) and have been employed by MPD for 15 years, 9 years as a Detective. Since its inception in 2004, I have been assigned to the Criminal Investigation Bureau's High Technology Unit. As part of my duties with the High Technology Unit, I investigate violations of state and federal criminal laws involving child exploitation and child pornography, which

includes violations of 18 U.S.C. § 2423(b) (traveling in interstate commerce for the purpose of engaging in illicit sexual conduct), and 18 U.S.C. § 2246 (a sexual act as defined in Title 18 United States Code, Section 2246, with a person under eighteen years of age, and said sexual act would be in violation of Chapter 109A of Title 18 United States Code, specifically Title 18, United States Code, Section 2243, if the sexual act occurred in the special maritime and territorial jurisdiction of the United States.

I have received specialized instruction in the area of child pornography and child exploitation investigations. I received training in this area from the Internet Crimes Against Children Task Force, in a course entitled Undercover Chat Investigations and Child Pornography Investigations and at the Internet Crimes Against Children in Appleton, WI in 2005. I have also received training in other areas pertaining to cyber crimes and computer forensics.

As part of my training I have become familiar with the internet, which is a global network of computers and other electronic devices that communicate with each other using various means, including standard telephone lines, high-speed telecommunications linked and wireless transmission including satellite. Due to the structure of the internet, connections between computers online routinely cross state and international borders, even when the computers communication with each other are in the same state.

As part of my training I have also become familiar with the use of a cellular telephone chat sites. Due the structure of telecommunications services, connections between cellular telephones routinely cross state and

international borders, even when the cellular telephones communication with each other are in the same state.

**Basis for Facts Establishing Probable Cause.**

2. The information contained in this affidavit is based upon my personal knowledge and investigation, my review of various documents and records, as well as information supplied to me by other detectives and law enforcement officers, all of whom I believe to be truthful and reliable. Everything set forth in this affidavit is true to the best of my knowledge and belief.

The information contained in this affidavit is not an exhaustive account of everything I know about this case. Rather, it contains only the facts that I believe are necessary to establish probable cause to believe that **James Wayne Colburn, Jr.** committed the violations alleged in the criminal complaint.

**Facts Establishing Probable Cause.**

3. This offense occurred in Milwaukee County, State of Wisconsin, in the Eastern District of Wisconsin. I am assigned to operate in an undercover capacity on the Internet for the purpose of identifying and investigating persons attempting to exploit or solicit sexual acts with children. As part of those investigations, I also participate in text chat using my cellular telephone through UPOC; a wireless chat community which allows users to send and receive messages either through the use of their cellular phone or through the use of their computer connected to the

UPOC website. UPOC is physically located at 65 Broadway, Suite 602, New York, New York.

On Wednesday, March 26, 2008, using my undercover UPOC profile, I sent a general message to all users in the UPOC Northern Illinois chat room at 1:58pm, stating, "sup Illinois from boring Wisconsin". The time stamp on the message as it appeared on the UPOC website was one hour ahead of the time I actually sent the message, since UPOC is in the Eastern Time zone.

Due to the fact that my undercover identity is currently in use in other investigations, I will not reveal my screen name in this report, but will refer to my undercover persona as "Maria". My UPOC profile displays my name as "Maria", my age of 15, and my location of WI. My chats with Colburn occurred from an undercover computer, located in the High Technology Unit of the Milwaukee Police Department, located at 749 W. State St., and from my undercover cellular telephone, at the point which I left the Police Department to go to the proposed meeting location.

My profile does show a picture of a Hispanic female, which in actuality is a photo of a Milwaukee Police Aide, taken of her when she was 14 or 15 years old.

At 3:04pm on Wednesday, March 26, 2008, I received a text message from the UPOC user, discreet1, stating, "hey babygurl, what u up 2". This began an exchange of a series of text messages between my online identity and "discreet1". At 3:16pm I sent a text to discreet1 asking, "so whaz ur name and how old r u". Discreet1 responded at 3:17pm, writing, "Im Jim n



im 36, how bout u". I responded, "oh im maria. im 15 lol". Discreet1 responded, "Oh, so u gota bf?" We continued texting.

At 4:14pm, discreet1 sent a message stating, "no that's cool, ur very HOT, I saw ur pic. Wow". I asked discreet1 if he had a picture, and he replied, "The only pix I got r x rated lol." He immediately followed up with a text writing, "So u like sex? U tried it yet?" I responded, "i didn't do sex yet but I did other stuff." Discreet1 asked, "Wat u done?" I replied, "bj's". The term "bj" is a commonly known term for oral sex, mouth to penis. Discreet1 continued sending text messages of a sexual nature, asking "Maria" , "U neva had sum1 lick dat pusc?" and when "Maria" told him she had not, discreet1 replied, "Gud girl, u keep dat off limits! Way hot that u like 2 suk dik tho". He then asked, "How long since u sukd sum dik?"

Discreet1 later asked, "Wats the oldest guy u sukd b4". "Maria" replied, "my laz bf was 17, he was the oldest". Discreet1 then wrote, "Dam grl, id luv 2 have those lips on my dik!" Maria told discreet1, "aight u can anytime but 1<sup>st</sup> tell me how u look". Discreet1 described himself, "I'm 6'3 brn brn 195 average build very nice dik, was bout u?" "Maria" described herself to discreet1, and he replied, "Fuk, u so fukn sexy! U eva think bout spendn time wit a older guy".

Discreet1 then began making plans to meet "Maria", writing, "Nice, we cud pick a date n I cud pick u up, have 2 b r secret, ur parents wud be upset if da knew." "Maria" told Discreet1 that she lived on the southside of Milwaukee near 20<sup>th</sup> and Layton. Discreet1 originally told "Maria" that he wanted to meet her on Friday, (March 28, 2008), but as the chat continued,

he told "Maria" that he could get out of work early and meet her at 9:00pm that night, (Wednesday, March 26, 2008).

"Maria" told discreet1 that she normally could only stay out until 10:00, but since she was on spring break, she did not have school so it did not matter.

Discreet1 asked "Maria", Cool, can u suk me in my car if we go 4 a drive?" Based upon my training and experience, I know the term "suk" to refer to an act of oral sex, mouth to penis. "Maria" told him that she would.

Discreet1 had asked "Maria" for her address, but she told him that she did not want him to come to her house, and instead provided him with the address of the Kwik Pantry, located at 2022 W. Layton Ave., Milwaukee, WI. Discreet1 told "Maria" that he needed the address so he could use gps.

Discreet1 arranged to meet "Maria" at 9:00pm on Wednesday, March 26, 2008, at the Kwik Pantry, located at 2022 W. Layton Ave., but told "Maria", "How bout I let u know when im close so u can walk over when I get there so ur not waitn." At 8:32pm, "Maria" told discreet1 that she was going to take a shower and send a text to discreet1 when she was ready.

I notified members of the Milwaukee Police Department High Technology Unit of the proposed meet in the area of S. 20<sup>th</sup> St. and W. Layton Ave, set for 9:00pm, at the Kwik Pantry. Det. Sean Lips accompanied me in an undercover vehicle, where we parked on the south side of the Kwik Pantry Lot, facing northbound, with a view of W. Layton

Ave. behind us, and a view of the Kwik Pantry directly in front of us. Det. Richard McQuown drove to the area in another undercover vehicle, and Intelligence Division Officers Michael Rohde and Chris Heidemann positioned themselves in the area in an unmarked Milwaukee Police Department Squad.

At 8:54pm, I sent a text message, posing as "Maria" to discreet1, stating, "Aight im all good." At 8:54pm, discreet1 sent a text back, stating, "Kewl". At 8:56pm, Det. Sean Lips and I observed a black Mustang enter the Kwik Pantry lot at the west end, and drive slowly through the lot, eastbound. The driver, and sole occupant of the vehicle, was a white male. He appeared have a cellular telephone earpiece in his right ear as he drove. This vehicle exited the lot on the east end, but then turned westbound on West Layton Ave. The vehicle made a u-turn in the median, and parked, facing eastbound on the south side of the street, in front of 2103 W. Layton Ave., which provided the driver with a view of the Kwik Pantry parking lot which was brightly lit. The driver parked at that location at 8:56pm, and remained in the vehicle, parked at that location at the same time I received a text from "Discreet1" stating, "K kum on ova". When the vehicle had driven through the lot, I observed that the rear registration plate was covered with a plastic, tinted cover, but underneath the cover was what appeared to be the coloring of an Illinois registration plate. However, because neither Det. Lips nor I could conclusively state that the registration plate was in fact an Illinois plate, I notified Det. McQuown of the location of what we believed to be Discreet1's vehicle, which was parked in the same location as a previous subject had parked during an



anticipated meet. I asked Det. McQuown to park west of the vehicle, and to notify us if the registration plate was an Illinois plate.

At 9:01pm, I received another text from discreet1, stating, "U there". "Maria" replied that she was on her way, and was walking as fast as she could.

During that time, Det. McQuown parked approximately 3 car lengths behind the vehicle, and walked eastbound on the sidewalk. Immediately after Det. McQuown passed the vehicle, the vehicle pulled away from the parking space and began traveling eastbound on W. Layton Ave., accelerating quickly as it traveled. Det. Lips had been in contact with Officers Rohde and Heidemann, advising them of the fact that the vehicle had traveled through the Kwik Pantry Lot, and that it had parked across the street from the lot, and again as it left the parking space, and began traveling eastbound on W. Layton Ave.

Det. Sean Lips and I followed the vehicle as it traveled eastbound on Layton Ave. The driver continued accelerating, driving at what appeared to be a speed faster than the posted speed limit, passing vehicles as it drove. Officers Rohde and Heidemann pulled in behind the vehicle in about the 1400 block of W. Layton Ave. and activated their emergency lights and siren in an effort to have the driver stop the vehicle. The driver turned southbound on S. 13<sup>th</sup> St., pulling over at 4701 S. 13<sup>th</sup> St. Officers Rohde and Heidemann immediately took the driver into custody. The driver was identified as James W. Colburn Jr. , W/M, 10-03-1961, of 14175 Oak Knoll Road, Wadsworth, IL,

As I approached the vehicle, Det. Lips pointed out a gps unit on the passenger side floor of the vehicle. Det. Lips conducted a preliminary search of Colburn Jr. 's cell phone, which contained stored text messages between discreet1 and the username of my undercover identity.

Following the arrest of Colburn Jr. , Det. Lips and I met with Colburn Jr. , who we had unhandcuffed, and placed in the back seat of Lt. Ruzinski's unmarked vehicle. I advised Colburn Jr. of the charge for which he was arrested; Use of a Computer to Facilitate a Child Sex Crime. I read him his Constitutional Rights/Miranda Warnings from a card, and conducted a preliminary questioning of Colburn Jr. . Colburn Jr. admitted to traveling from his place of employment, American Family Insurance in Waukegan Il, to Milwaukee, WI, on that date, where he was to have met a person he had chatted with on UPOC, at the Kwik Pantry lot. He admitted that he had come to meet the girl for sexual contact in the form of oral sex, with the girl to perform the oral sex act on Colburn Jr. . However, Colburn Jr. told us that he believed that the girl was 25 years old. Colburn Jr. did acknowledge that the girl had told him that she was a virgin, and lived with her mother, but denied knowing that she was 15 years old. However, he did acknowledge viewing her picture on her UPOC profile.

Colburn Jr. gave consent to examine his cellular telephone, and during the course of that forensic examination of the phone, among the stored text messages from my undercover identity to Colburn Jr. , I observed a stored text message stating, "oh im maria. im 15 lol".